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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,816	06/04/2001	Herve Gaudillat	Q64768	1966

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EXAMINER

SHEW, JOHN

ART UNIT PAPER NUMBER

2664

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/871,816

**Applicant(s)**

GAUDILLAT, HERVE

**Examiner**

John L Shew

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/28/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 cites the limitation "wherein the step of receiving connection requests, the step of verifying the possibility of setting up the connections, and the step of updating said database are performed by a scheduler program which spans a services management layer and a network management layer" is not disclosed in the specification as to the method in which a scheduler spans a services management layer and a network management layer.

Claim 7 cites “wherein the means for receiving connection requests spans a services management layer and a network management layer” is not disclosed in the specification as to the method in which a means for a connection request spans a services management layer and a network management layer.

3. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 cites the limitation “wherein the step of receiving connection requests, the step of verifying the possibility of setting up the connections, and the step of updating said database are performed by a scheduler program which spans a services management layer and a network management layer” is not disclosed in the specification as to the method in which a scheduler spans a services management layer and a network management layer. Therefore the claim as cited does not enable one of ordinary skill to determine the method of spanning the services management layer and the network management layer.

Claim 7 cites “wherein the means for receiving connection requests spans a services management layer and a network management layer” is not disclosed in the

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specification as to the method in which a means for a connection request spans a services management layer and a network management layer. Therefore the claim as cited does not enable one of ordinary skill to determine a means of spanning the services management layer and the network management layer.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 5, 6, 7, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Maeshima et al.

Claim 1, Maeshima teaches a method of managing a telecommunication network (FIG. 1, column 1 lines 30-39) referenced by the telecommunication characteristics of the Virtual Private Network through the Internet, including receiving connection requests (FIG. 2, FIG. 5, column 5 lines 29-39) referenced by the IP Datagram 311 received by

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processor 307 with contents of IP sending and receiving addresses, said connections being determined on the basis of parameters contained in said request and including time requests (FIG. 5, column 6 lines 48-53) referenced by the reservation information including date and time, verifying the possibility of setting up the connections in accordance with said parameters (FIG. 5) referenced by steps S22 and S25 confirming IP tunnel setting and bandwidth possibility by Resource reSerVation Protocol, on the basis of a database in which all connections are stored (FIG. 2, column 5 lines 16-28) referenced by the reservation database 308, and updating said database if setting up said connection is possible (FIG. 5) referenced by step S23 testing possibility of IP tunnel and step S27 registering information of reservation to the database.

Claim 4, Maeshima teaches said time parameters correspond to series of time intervals having an aperiodic character (Abstract lines 1-15, column 6 lines 48-53) referenced by a reservation with time date information which by itself is aperiodic.

Claim 5, Maeshima teaches said time parameters include data corresponding to an absolute time and a finite duration (FIG. 5, FIG. 6, column 6 lines 28-67, column 7 lines 1-8) referenced by the reservation information starting at a specific date and time step S28 with a termination of the reserved bandwidth step S32.

Claim 6, Maeshima teaches the updating of available connection in said database allows for said time parameters (FIG. 5) referenced by the registering information of reservation to the database step S27.

Claim 7, Maeshima teaches a telecommunications network management unit (FIG. 2) referenced by the traffic control in router, including means for receiving connection requests (Fig. 2) referenced by the Processor 307 receiving IP Datagrams 311, said connections being determined on the basis of parameters contained in said requests (column 5 lines 29-37) referenced by parameters including IP sending and receiving addresses, and including time parameters (column 6 lines 48-53) referenced by the reservation information including date time and bandwidth, means for verifying the possibility of setting up the connections in accordance with said parameters on the basis of a database in which all calls are stored (FIG. 5, column 6 lines 37-47) referenced by steps S22 and S25 confirming the possibility of IP tunnels and bandwidths, means for updating said database accordingly (FIG. 5) referenced by step S27 which registers the reservation information to the database, and means for reserving connections allowing for time parameters (FIG. 5, column 6 lines 48-53) referenced by the reservation of the IP tunnel connection at the date and time.

Claim 8, Maeshima teaches means for updating connection in said network according to the content of said database which contains reservations allowing for time parameters

(FIG. 5, column 6 lines 28-57) referenced by step S27 which registers the reservation information including time and date to the database thereby updating the database.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeshima et al. as applied to claim 1 above, in view of Abe.

Claims 2, 3 Maeshima teaches a network management method with time parameters corresponding to time intervals (FIG. 5, column 6 lines 48-53) referenced by the reservation information including date and time. Maeshima does not teach periodic time intervals.

Abe teaches network management with time intervals having a periodic character (FIG. 8, column 3 lines 25-40) referenced by the periodic reservation unit 802.

Abe teaches time parameters take the form of a duration of uses/reservations repeated daily and/or weekly (FIG. 8, column 8 lines 56-67, column 9 lines 1-3, FIG. 18) referenced by the periodic contention for daily or weekly or monthly.



It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the periodic reservation unit of Abe to the VPN reservation system of Maeshima for the purpose of proving greater freedom in reservation control.

### ***Response to Arguments***

The amendment of Claim 1 with the limitation of "a scheduler program which spans a services management layer and a network management layer" and Claim 7 with the limitation "the means for receiving connection requests spans a services management layer and a network management layer" presents new matter which is not disclosed in the original specification as to the method by which how such a function spans the two layers. The original rejections are maintained as to the original limitations of the respective claims.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

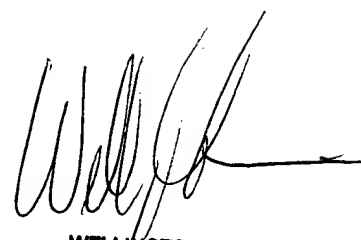
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Shew whose telephone number is 571-272-3137. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WELLINGTON CHIN  
SUPERVISORY PATENT EXAMINER